

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

1 JUL 01 2010

To:
DORSEY & WHITNEY LLP Attn. Levitt, Kenneth E. 50 South Sixth Street Suite 1500 Minneapolis MN 55402-1498 ETATS-UNIS D'AMERIQUE
REGISTERED MAIL DOCKETED

INVITATION TO PAY ADDITIONAL FEES
AND, WHERE APPLICABLE, PROTEST FEE
(PCT Article 17(3)(a) and Rule 40.1 and 40.2(e))

446368 - 1007
KEL/TAW/MDS/JJW

Applicant's or agent's file reference	PAYMENT DUE <input checked="" type="checkbox"/> within ONE MONTH from the above date of mailing
P189344.WO.06	Date of mailing (day/month/year) <u>24/06/2010</u>
International application No.	International filing date (day/month/year) <u>12/02/2010</u>
PCT/US2010/024144	
Applicant	
OSTEOTECH, INC.	

1. This International Searching Authority

(i) considers that there are 3 (number of) inventions claimed in the international application covered by the claims indicated on an extra sheet:

(ii) therefore considers that **the international application does not comply with the requirements of unity of invention** (Rules 13.1, 13.2 and 13.3) for the reasons indicated on an extra sheet:

(iii) has carried out a partial international search (see Annex) will establish the international search report on those parts of the international application which relate to the invention first mentioned in claims Nos.:
see extra sheet

(iv) will establish the international search report on the other parts of the international application only if, and to the extent to which, additional fees are paid.

2. Consequently, the applicant is hereby **invited to pay**, within the time limit indicated above, the amount indicated below:

EUR 1.700,00 x 2 = EUR 3.400
Fee per additional invention number of additional inventions currency/total amount of additional fees

3. The applicant is informed that, according to Rule 40.2(c), **the payment of any additional fee may be made under protest**, i.e., a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive, where applicable, subject to the payment of a protest fee.

Where the applicant pays additional fees under protest, the applicant is hereby invited, within the time limit indicated above, to pay a protest fee (Rule 40.2(e)) in the amount of EUR 790,00 (currency/amount)

Where the applicant has not, within the time limit indicated above, paid the required protest fee, the protest will be considered not to have been made and the International Searching Authority will so declare.

4. Claim(s) Nos. see extra sheet have been found to be unsearchable under Article 17(2)(b) because of defects under Article 17(2)(a) and therefore have not been included with any invention.

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer Nickoleta Kocheva
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This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-4

Tool for inserting and placing a delivery system with a handle, an elongated body, a suture retaining mechanism and an insertion head for receiving a covering material.

2. claims: 5-7

Tool for inserting and placing a delivery system with a tubular section having an interior chamber and a plunger for expelling a covering material from the interior chamber.

3. claims: 8, 9

Tool for cutting and sealing a delivery system with a handle, scissor blades and a sealing mechanism.

This Authority considers that the application does not meet the requirements of unity of invention and that there are 3 inventions covered by the claims indicated as follows:

Claims 1-4: Tool for inserting and placing a delivery system with a handle, an elongated body, a suture retaining mechanism and an insertion head for receiving a covering material.

Claims 5-7: Tool for inserting and placing a delivery system with a tubular section having an interior chamber and a plunger for expelling a covering material from the interior chamber.

Claims 8, 9: Tool for cutting and sealing a delivery system with a handle, scissor blades and a sealing mechanism.

The reasons for which the three inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

There are no corresponding special technical features between the three groups of claims: the first group is directed to an elongated tool for inserting and placing a delivery system with an insertion head for receiving the covering material and with a suture retaining mechanism; the second group is directed to a tubular tool for inserting and placing a delivery system with an interior chamber for receiving the covering material and with a plunger for expelling it; the third group is directed to a tool for cutting with scissor blades and sealing with a mechanism for sealing an opening in the covering material.

Between the first and second groups the common subject-matter is a tool for inserting and placing a delivery system which is well-known in the art (e.g. a catheter or a syringe).

Also, examining the possible correspondence by technical effect, one finds that the technical effect of the first invention is retaining a delivery device by using its sutures, that the technical effect of the second invention is pushing a delivery device from within a tube and the technical effect of the third invention is cutting and sealing a delivery

device.

This appears to show lack of corresponding technical effect as well. Consequently, neither the objective problem underlying the subjects of the claimed inventions, nor their solutions defined by the special technical features allow for a relationship to be established between the said inventions, which involves a single general inventive concept. In conclusion, the three groups of claims are not linked by common or corresponding special technical features and define three different inventions not linked by a single general inventive concept.

The application, hence does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 206

Continuation of Box 4.

Claim(s) completely searchable:
1-9

Claim(s) not searched:
10

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery

1. The present communication is an Annex to the invitation to pay additional fees (Form PCT/ISA/206). It shows the results of the international search established on the parts of the international application which relate to the invention first mentioned in claims Nos.:

see 'Invitation to pay additional fees'

2. This communication is not the international search report which will be established according to Article 18 and Rule 43.

3. If the applicant does not pay any additional search fees, the information appearing in this communication will be considered as the result of the international search and will be included as such in the international search report.

4. If the applicant pays additional fees, the international search report will contain both the information appearing in this communication and the results of the international search on other parts of the international application for which such fees will have been paid.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 440 991 A1 (ACUFEX MICROSURGICAL INC [US]) 14 August 1991 (1991-08-14) figures 13,14 column 10, lines 12-56	1-4
X	US 2003/039676 A1 (BOYCE TODD M [US] ET AL) 27 February 2003 (2003-02-27) figures 21,22 paragraph [0143]	1-4
X	US 6 143 030 A (SCHRODER LISA K [US]) 7 November 2000 (2000-11-07) figure 3	1-4
X	US 2007/093896 A1 (MALININ THEODORE I [US]) 26 April 2007 (2007-04-26) figure 18	1
A	paragraph [0049]; figures 15,17	2-4



Further documents are listed in the continuation of box C.



Patent family members are listed in annex.

° Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Patent document cited in search report	Publication date	Patent family member(s)		Publication date
EP 0440991	A1 14-08-1991	AU 7010691	A 01-08-1991	A
		CA 2035201	A1 01-08-1991	
		FI 910443	A 01-08-1991	
		US 5139520	A 18-08-1992	
		US 5374269	A 20-12-1994	
US 2003039676	A1 27-02-2003	US 2008188945	A1 07-08-2008	
		US 2007233272	A1 04-10-2007	
US 6143030	A 07-11-2000	NONE		
US 2007093896	A1 26-04-2007	US 2007135917	A1 14-06-2007	
		US 2007135928	A1 14-06-2007	
		US 2007135918	A1 14-06-2007	